

Remarks/Arguments

This Amendment is in response to the Office Action mailed August 11, 2005. In the Office Action, claims 1 and 12 were objected, claims 1-6, 10-11, 15-19, and 23-27 were rejected under 35 U.S.C. §102, and claims 7, 8, 9, 12, 13, 14, 20-22, and 28 were rejected under 35 U.S.C. §103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claim Objections

Claims 1 and 12 were objected to due to informalities. Applicant has amended these claims to correct the informalities. Withdrawal of the objection is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1-6, 10-11, 15-19, and 23-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Vantalon (U.S. Patent No. 6,628,891). Applicant respectfully traverses the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989).

For instance, with respect to independent claim 1, the switching unit is coupled to the conditional access unit and is adapted to route the program data with the content in the scrambled format for storage and the program data with the content in the clear format for viewing in response to instructions from a central processing unit. In contrast, the cipher bank (54) is considered to constitute the "switching unit" while the cipher processor (79), implemented within the cipher bank (54), is considered to be the conditional access unit that routes program data with the content in the scrambled format. *See Page 3 of the Office Action*. Besides the fact that the conditional access unit is implemented within the switching unit (see claim 4), Vantalon does not teach that the cipher bank enables simultaneous viewing and recording of the program data as claimed.

With respect to independent claims 20, 23, 27 and 28, Applicant incorporates by reference the arguments set forth above in that the cipher buffer of Vantalon does not enable simultaneous viewing and recording of various forms of program data as now claimed.

Hence, Applicant respectfully requests the Examiner to withdraw the outstanding §102 rejection.

Rejection Under 35 U.S.C. § 103

Claims 7, 8, 20-22, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vantalon in view of Hendricks (U.S. Patent No. 6,515,680). Also, claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Vantalon in view of Hendricks and Levine (U.S. Patent No. 6,219,634). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Vantalon in view of Hoffberg. (U.S. Patent No. 6,850,252) and claims 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vantalon in view of Kocher (U.S. Patent No. 6,289,455). Applicant respectfully traverses these rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988)*. Herein, the combined teachings of the cited references fail to describe or suggest all the claim limitations.

As previously stated, with respect to amended independent claims 1, 20, 23, 27 and 28, Applicant respectfully submits that none of the cited references, either alone or in combination, teach or suggest simultaneous viewing and recording of the program data as now claimed. Applicant respectfully requests the Examiner to reconsider the allowability of the claims based on the amendments presented and withdraw the outstanding §103 rejections.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: November 11, 2005

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Susan McFarlane

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